

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CEDRIC LACEY, #173035,

Plaintiff,

v.

CASE NO. 4:06-CV-12454
HONORABLE PAUL V. GADOLA

WARDEN BIRKETT, et al.,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION TO AMEND

This matter is before the Court on Plaintiff's "Motion to Amend Complaint and Judgment." The Court dismissed Plaintiff's *pro se* civil rights complaint without prejudice for failure to demonstrate exhaustion of administrative remedies. Plaintiff now seeks to cure such defects in his complaint.

The Court, however, may not permit Plaintiff to amend his complaint to comply with the exhaustion requirement and defeat dismissal under 42 U.S.C. § 1997e(a). *See Baxter v. Rose*, 305 F.3d 486, 488-89 (6th Cir. 2002) (citing *McGore v. Wrigglesworth*, 114 F.3d 601, 612 (6th Cir. 1997)); *see also Moniz v. Hines*, 2004 WL 259214, at *4 (6th Cir. Feb. 10, 2004) (unpublished). Additionally, to the extent Plaintiff seeks reconsideration of the Court's dismissal of his action, he is not entitled to relief. A motion for reconsideration which presents issues already ruled upon by the district court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Plaintiff has not met his burden of showing a palpable defect

by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(g)(3). Furthermore, because the Court dismissed Plaintiff's complaint without prejudice, there is no manifest injustice in denying the motion to amend. Plaintiff retains the opportunity to file a properly pleaded complaint.

ACCORDINGLY, IT IS ORDERED that the motion to amend [docket entry 5] is **DENIED**.

Dated: July 17, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on July 17, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

_____ ,
and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Cedric Lacey.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845